

17 August 1973

FOREIGN AID LEGISLATION

Restrictions and Prohibitions on Foreign Police Training

1. Background.

A. Senate. In keeping with its wish to separate military and economic assistance, the Senate Foreign Relations Committee (SFRC) has acted on two bills:

(1) Military Assistance. On 26 June 1973 the Senate passed S. 1443, "Foreign Military Sales and Assistance Act." Chapter 25 of the Act, dealing with "Supporting Assistance," provides in section 2502:

"(b) No part of any appropriation made available to carry out this or any other law shall be used to conduct any police training or related program for a foreign country."

The SFRC in its committee report on the prohibition explains:

"... Both training in the United States and in foreign countries is prohibited. The prohibition is meant to cover all advisory or training programs involving all phases of law enforcement, including prison administration. United States participation in the highly sensitive area of public safety and police training unavoidably invites criticism from persons who seek to identify the United States with every act of local police brutality or oppression in any country in which this program operates. It matters little whether the charges can be substantiated, they inevitably stigmatize the total United States foreign aid effort. In undeveloped areas of the world, the costs of public safety programs are better left to be underwritten from local resources and the United States assistance effort directed toward less sensitive areas of social or economic development.

"We have troubles enough with police/community relations in our own society. The Committee believes that our government's efforts would be better directed to this, and our own crime problem, rather than trying to teach foreigners how to run their police departments." (Senate Report 93-189, pages 33, 34.)

(2) Economic Assistance. On 2 August, the day before the summer recess, the SFRC favorably reported S.2335, "Foreign Assistance Act of 1973." This bill carries a similar prohibition:

"SEC. 115. PROHIBITING POLICE TRAINING.--No part of any appropriation made available to carry out this or any other provision of law shall be used to conduct any police training or related program for a foreign country."

The Senate Committee report explanation of this prohibition is identical to the explanation quoted above in connection with S.1443 except that there is a statement reflecting the Committee's intention not to impair certain narcotics programs:

"...However, this section is not intended to prohibit narcotics programs authorized under section 481 of the Foreign Assistance Act." (Senate Report 93-377, page 17.)

Status. The bill has been referred to the Senate Committee on Finance for consideration of that section of the bill relating to exports and for subsequent report to the Senate by that Committee not later than September 12.

B. House. On 26 July the House narrowly passed H. R. 9360, "Mutual Development and Cooperation Act of 1973," which authorizes foreign economic assistance for fiscal 1974 and 1975 and foreign military assistance for fiscal 1974. Section 821 bars the use of the bill's funds for support of police or prisons in South Vietnam:

"... No assistance shall be furnished under this section to South Vietnam unless the President receives assurances satisfactory to him that no assistance furnished under this part, and no local currencies generated as a result of assistance furnished under this part, will be used for support to the police or prison construction and administration within South Vietnam." (House Report 93-388, page 93.)

Representative Michael Harrington (D., Mass.) offered a floor amendment which would have broadened the provision to "any other act" and remove the discretionary authority of the President to determine if the funds were used for the prohibited purposes:

"No part of any appropriation made available to carry out this or any other act or local currency generated through commodity sales programs shall be used for public safety programs, police training, support, or advisory programs, prison construction, or prison administration within South Vietnam." (119 Cong. Rec. H. 6731. Daily Ed. June 26, 1973.)

The Harrington amendment was rejected.

2. Parliamentary Situation. At best, the parliamentary situation is messy.

A. S. 1443/H. R. 9360. The House amended the Senate passed S. 1443 by substituting the provisions of H. R. 9360. The options for the Senate are:

(1) To accept the House version of the legislation;

(2) To disagree with the House amendments and request a conference to resolve the difference between the House and Senate passed bills;

(3) To place S. 2335 on the Senate Calendar after it is reported out by the Senate Finance Committee, pass it, and send it to the House where it probably would be referred to the House Foreign Affairs Committee for further action;

(4) Amend H. R. 9360 in the Senate by adding the substance of S. 2335 and send it back to the House for further action where it could lead to a request for a conference. In the meantime, the foreign assistance program would continue to be funded under continuing resolution which is due to expire 30 September (P. L. 93-52).

B. Prospects. Since the SFRC, Chairman Fulbright particularly, is anxious to attempt to get some of the restrictions in the Senate bill into the law, it is believed that the SFRC will want to bring the legislation to conference as soon as possible, otherwise foreign assistance programs are funded under the continuing resolutions sans restrictions. The House

Foreign Affairs Committee has traditionally been more receptive to our needs. Moreover, as noted above with respect to narcotic programs, even the broad Senate provision has already been narrowed. For this reason, we think we could be effective in working out either legislative history or statutory language to protect our equities if this becomes necessary.